

STATE OF INDIANA)
) SS:
COUNTY OF RUSH)

Superior
IN THE RUSH CIRCUIT COURT

AVC NO. 00 AVC 020

FILED

MAY 14 2001

IN RE: MENNO SCHWARTZ, individually)
and doing business as,)
M & M CONSTRUCTION,)
)
Respondent.)

RUSH SUPERIOR COURT

MISCELLANEOUS DOCKET
NO. 700010105 *ME* 041

ASSURANCE OF VOLUNTARY COMPLIANCE

The State of Indiana, by Attorney General Karen M. Freeman-Wilson and Deputy Attorney General Roy P. Coffey, and Respondent, Menno Schwartz, individually and doing business as M & M Construction, enter into this Assurance of Voluntary Compliance (Assurance), pursuant to Indiana Code §24-5-0.5-7.

It is acknowledged that violation of this Assurance constitutes prima facie evidence of a deceptive act as defined by Ind. Code §24-5-0.5-3. This Assurance is entered into without any adjudication of any issue of fact or law herein, and upon consent of the parties hereto.

It is hereby agreed that:

1. Respondent has a principal mailing address in Rush County at 2610 W CR 300 S, Rushville, Indiana 46173. At all relevant times Respondent has engaged in consumer transactions with Indiana consumers.
2. The terms of this Assurance apply to and are binding upon Respondent, his employees, agents, representatives and assigns.
3. Respondent acknowledges the jurisdiction of the Consumer Protection Division of the Office of the Attorney General to investigate matters hereinafter described, pursuant to the authority of Ind. Code §4-6-9-4 and Ind. Code §24-5-0.5-1 et seq.

4. Respondent agrees, pursuant to Ind. Code §24-5-11-10, in every home improvement transaction to provide a completed home improvement contract to the consumer before it is signed by the consumer. Respondent agrees that the contract must contain at a minimum the following:

- (a) The name of the consumer and the address of the residential property that is the subject of the home improvement;
- (b) The name and address of the home improvement supplier and each of the telephone numbers and names of any agent to whom consumer problems and inquiries can be directed;
- (c) The date the home improvement contract was submitted to the consumer and any time limitation on the consumer's acceptance of the home improvement contract;
- (d) A reasonably detailed description of the proposed home improvements;
- (e) If the description required by Indiana Code §24-5-11-10(a)(4) does not include the specifications for the home improvement, a statement that the specifications will be provided to the consumer before commencing any work and that the home improvement contract is subject to the consumer's separate written and dated approval of the specifications;
- (f) The approximate starting and completion date of the home improvements;
- (g) A statement of any contingencies that would materially change the approximate completion date;
- (h) The home improvement contract price; and
- (i) Signature lines for the home improvement supplier or the supplier's agent and for each consumer who is to be a party to the home improvement contract with a legible printed or a typed version of that person's name placed directly after or below the signature.

5. Respondent agrees, pursuant to Ind. Code §24-5-11-11, that before the consumer signs the home improvement contract and before the consumer can be required to make a down

payment, the Respondent must have agreed unequivocally by written signature to all of the terms of the home improvement contract.

6. Respondent agrees, pursuant to Ind. Code §24-5-11-12, that Respondent shall give a fully executed copy of the home improvement contract to the consumer immediately after the consumer signs it. The contract must also show the dates the supplier and each consumer executed the contract.

7. Respondent, in soliciting and/or contracting with consumers, agrees to refrain from conducting any business activity in the State of Indiana unless those activities are in full compliance with the Home Improvement Contracts Act, Ind. Code §24-5-11-1 et seq.

8. Respondent agrees to refrain from conducting any home improvements until he has first obtained all necessary licenses and building permits required by law.

9. Respondent, in soliciting and/or contracting with consumers, agrees to fully comply with the Deceptive Consumer Sales Act, Ind. Code §24-5-0.5-1 et seq.

10. Respondent agrees to reimburse Mrs. Edith Cox, 9883 E. State Road 234, Wilkinson, Indiana, 46186, the amount of Eight Hundred Eighty-Seven and 86/100 Dollars (\$887.86) payable to the Indiana Office of the Attorney General upon execution and return of this Assurance to the Attorney General's Office.

11. Respondent may satisfy the requirement of paragraph 10 above by providing the Indiana Attorney General's Office with proof of payment of the above amount to either Edith Cox or to the Hancock County Clerk for application to the unpaid judgment entered against Respondent in Cause No. 30D02-9910-SC-00726.

12. Respondent agrees to reimburse the Consumer Protection Division of the Office of the Attorney General for its reasonable costs of investigating this matter in the amount of Five

Hundred Dollars (\$500.00) payable to the Indiana Office of the Attorney General upon the execution and return of this Assurance to the Attorney General's Office.

13. Respondent agrees that private individuals retain all rights to any private cause of action they may have.

14. This Assurance does not constitute an approval by the Attorney General of any of Respondent's past or future business practices, and Respondent shall not make any representations to the contrary.

15. Respondent agrees to fully cooperate with the Office of the Attorney General in the resolution of any future written complaints the Consumer Protection Division receives.

16. The Office of the Attorney General shall file this Assurance with the Circuit Court of Rush County.

STATE OF INDIANA

RESPONDENT

KAREN M. FREEMAN-WILSON
Attorney General of Indiana

MENNO SCHWARTZ, individually and doing
business as M & M Construction

By: 

By: 

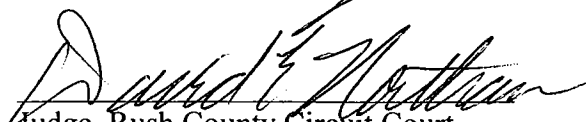
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Deputy Attorney General
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Office of Attorney General
402 W. Washington, 5th Floor
Indianapolis, Indiana 46204
Telephone: (317) 232-6229

Menno Schwartz

DATED: 3/13/00

DATED: _____

APPROVED AND ORDERED, this 15th day of May, ~~1999~~ ²⁰⁰⁰.


Judge, Rush County Circuit Court